

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

GAYLYNN STOUT, #646467

§

VS.

§

CIVIL ACTION NO. 6:11cv137

LT. DEAN, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Gaylynn Stout, a prisoner confined in the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the Plaintiff's claims about being denied a legal visit with another inmate should be dismissed pursuant to 28 U.S.C. § 1915A(b)(1). The Plaintiff responded by filing a document entitled "Motion for Reconsideration," which was docketed as objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections by the Plaintiff are without merit. As was noted in the Report and Recommendation, the Fifth Circuit has clearly held that complaints about a "denial of face-to-face meetings with other prisoners is patently frivolous." *Beck v. Lynaugh*, 842 F.2d 759, 762 (5th Cir. 1988). The original and amended complaints are frivolous for the additional reason that the Plaintiff failed to show an actual injury

by being denied a legal visit with another inmate, which requires a showing that he was unable to pursue a nonfrivolous claim with arguable legal merit. *Christopher v. Harbury*, 536 U.S. 403, 415 (2002). Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the civil rights complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). It is further

ORDERED that all motions by either party not previously ruled on are hereby **DENIED**.

Finally, the Plaintiff is hereby informed that the decision dismissing his civil rights lawsuit as frivolous counts as a strike for purposes of § 1915(g). He is cautioned that once he accumulates three strikes, he may not proceed IFP either in any civil action or in any appeal of a civil action which is filed while he is incarcerated or detained in any facility, unless he is under imminent danger of serious physical injury.

So ORDERED and SIGNED this 19th day of May, 2011.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE